CITY OF BLOOMINGTON HUMAN RIGHTS COMMISSION 2013 ANNUAL REPORT



The Bloomington Human Rights Ordinance promotes equal opportunity in employment, education, housing and access to public accommodations, regardless of race, sex, religion, color, sexual orientation, gender identity, national origin, ancestry or disability. The ordinance also prohibits discrimination in housing on the basis of familial status.

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POLICY OF THE CITY OF BLOOMINGTON

It is the public policy of the City of Bloomington to provide all citizens equal opportunity for education, employment, access to public accommodations and acquisition through purchase or rental of real property including but not limited to housing, and to eliminate segregation or separation based on race, religion, color, sexual orientation, sex, disability, national origin, gender identity or ancestry, since such segregation is an impediment to equal opportunity. It is also the public policy of the City of Bloomington to prohibit discrimination in housing on the basis of familial status. Equal education and employment opportunities, equal access to and use of public accommodations and equal opportunity for acquisition of real property are hereby declared to be civil rights.

The practice of denying these rights to persons because of race, religion, color, sex, disability, sexual orientation, gender identity, national origin, familial status or ancestry is contrary to the principles of freedom and equality of the City, and shall be considered as discriminatory practices. The promotion of equal opportunity without regard to race, religion, color, sexual orientation, sex, disability, gender identity, national origin, familial status or ancestry is the purpose of this Section.

It is also the public policy of the City to protect employers, labor organizations, employment agencies, property owners, real estate brokers, builders and lending institutions from unfounded charges of discrimination.

CITY OF BLOOMINGTON HUMAN RIGHTS ORDINANCE

Bloomington Municipal Code §2.21.020, as amended

The Bloomington Human Rights Commission usually meets at 5:30 p.m. on the fourth Monday of each month, in the McCloskey Conference Room of the Showers Building, 401 N. Morton. Unless otherwise specified, meetings are open to the public. The 2014 meeting dates are listed on page 26 of this report.

BLOOMINGTON HUMAN RIGHTS COMMISSION 2013 OFFICERS

CHAIR Byron Bangert

VICE CHAIR Carolyn Calloway-Thomas

SECRETARY Alexa Lopez 1/13 – 8/13

Michael Molenda 9/13 – 12/13

COMMISSIONERS

NAME	TERM EXPIRES	APPOINTED BY
Byron Bangert	1/14	Council
Carolyn Calloway-Thomas	1/15	Mayor
Valeri Haughton	1/14	Council
Michael Molenda	1/15	Mayor
Alice Tischler (Resigned 12/13)	1/14	Mayor
Teri Guhl (Resigned in 6/13)	1/14	Council
Alexa Lopez (Resigned in 8/13)	1/14	Mayor
William Morris	1/14	Mayor
Beth Applegate	1/15	Mayor

2013 STAFF

DIRECTOR/ATTORNEY: Barbara E. McKinney SECRETARY: Barbara Toddy

Bloomington Human Rights Commission Annual Report of the Chair, 2013

The Bloomington Human Rights Commission, established by ordinance enacted by the Bloomington City Council, exercises jurisdiction within the City of Bloomington only. The BHRC promotes equal opportunity in employment, housing, education, and access to public accommodations, regardless of race, sex, religion, color, sexual orientation, gender identity, national origin, ancestry, or disability. The Bloomington Human Rights Ordinance also prohibits discrimination in housing on the basis of familial status.

The Commission's Director and members investigate complaints of discrimination filed by residents of Bloomington, issue findings, and pursue negotiated or imposed settlements in those instances where violations are found.

The BHRC also works to promote greater community awareness of human rights issues by engaging in public education and various civic activities, advocacy efforts, and diversity and multi-cultural events.

The BHRC also collaborates with other City commissions that share overlapping missions, including the Commission of the Status of Women, the Dr. Martin Luther King, Jr., Birthday Commission, the Commission of the Status of Black Males and the Council for Community Accessibility.

The BHRC has long had an interest in the conditions prevailing inside the Monroe County Jail. We arranged a tour with Sheriff James Kennedy in February, both to acquaint our newer members with the jail and to gain a better understanding of what currently transpires inside the walls.

On February 20 we formally presented our 2013 Human Rights Awards to attorney Guy Loftman in recognition of his long-standing commitment to civil rights and, in particular, his work in cooperation with the Monroe County NAACP to address issues of racial discrimination in the city and county. In April we again fielded a team called the "Rights Stuff" in the annual VITAL Quiz Bowl fund-raiser for Volunteers in Tutoring Adult Learners. In April we also recognized the student winners of our annual Essay & Art Contest with an awards ceremony presided over by the Mayor at City Hall. Our adopted theme for 2014: "Choosing Civility: The best examples I've seen for being considerate to others."

We participated in the annual 4th of July parade with a colorful float bearing the theme, "Red, Blue, or White: All Have Human Rights." Due to the large crowds, we exhausted our supply of activity booklets given to children on the route.

We commissioned a piece of artwork depicting former Monroe County Council member Sophia Travis, who died in 2012, in recognition of her multiple contributions to better life in our community. The Monroe County Human Rights Commission agreed to share in the cost of the artwork, which will be created by a Stone Belt Center client, and which will be hung in an appropriate County building.

Throughout the year, in response to an overture from local citizens involved in assisting the homeless in our community, we explored the possibility of recommending to the Common Council the addition of "housing status" as a protected category to the ordinance defining our

Commission's work. The issue remains open as more input is being sought, especially from persons representing the homeless and the local business community.

We also explored and continue to work on a plan to address wage theft and related labor abuses that tend to occur in settings where workers are vulnerable to exploitation due to their legal status (e.g., as undocumented immigrants) and/or divergent cultural norms and expectations. We agreed to encourage fair labor practices among Bloomington restaurants by creating a decal for eating establishments to display on a voluntary basis attesting to their fair practices, as defined in a Fair Labor Compliance Certification statement we are preparing for distribution.

In October the BHRC unanimously passed a resolution in support of the Bloomington Common Council's proposed resolution 13-15, opposing House Joint Resolution 6, which calls for amending the Indiana State Constitution to prohibit same-sex marriage and potentially to deny rights and protections to all domestic partnerships that might otherwise be regarded as legally analogous to marriage. Resolution 13-15 also calls for marriage equality. The BHRC resolution was read before the Common Council on December 4. The Council unanimously passed its resolution with evident and enthusiastic support from all persons present at the meeting.

Each quarter the Director prepares, and the Commission reviews and receives, the Quarterly report of contacts made to the BHRC office and the disposition of actual cases, as well as other activities of the Director and BHRC. The number of complaints filed, the number of cases investigated, and the number of hate incidents reported all continue to be at relatively low levels.

Respectfully submitted,

Byron C. Bangert, Chair

CITY OF BLOOMINGTON HUMAN RIGHTS COMMISSION

DIRECTOR'S REPORT 2013

In 2013, as in every year, the BHRC continued its efforts to meet its two central and related objectives: to investigate complaints in a fair and timely manner and to undertake a variety of educational activities. Investigating complaints must remain our top priority, and must be done as promptly and as thoroughly as possible. At the same time, we believe that the more educational programs we organize or co-sponsor, the fewer complaints we likely will have to investigate.

DISCRIMINATION COMPLAINTS: In 2013, we had five new complaints filed with us. We continued our long-standing practice of having members of the commission take on the difficult task of investigating these complaints and deciding if there was probable cause to believe that illegal discrimination had occurred. The job of the investigating commissioner is to weigh complicated and conflicting testimony, evaluate sometimes overwhelming documentary evidence and apply the relevant law. The commissioners continued to approach this responsibility with the serious dedication it requires, and our community is the better because of their work. On average, we closed cases within four months.

Four of our new cases alleged discrimination in employment: two of these alleged race discrimination and two alleged sex discrimination in employment. The fifth case alleged discrimination on the basis of disability in public accommodations.

We resolved six cases in 2013, including three pending from 2012. We found no probable cause to believe discrimination occurred in four of these cases. One of these was appealed, unsuccessfully. Two of our cases were settled; two cases filed in late 2013 are still pending.

As is true every year, we receive many complaints about alleged discrimination that occurred outside of our jurisdiction, or for which we may have a conflict of interest. In these cases, we often refer the complainant directly to an agency that has jurisdiction. Time permitting, we meet with the complainant, prepare a complaint and file it with the appropriate agency. In 2013, we referred approximately fifteen people directly to the Equal Employment Opportunity Commission (the federal fair employment agency) and filed three complaints with that agency. We referred approximately five people directly to the Indiana Civil Rights Commission (the state civil rights agency).

AFFIRMATIVE ACTIONS AND WAGE ISSUES: Pursuant to the Bloomington Human Rights Ordinance, all City bidders with bids of more than \$10,000 are required to submit affirmative action plans to the BHRC for approval before the bid opening. In 2013, I reviewed and approved 75 affirmative action plans.

The BHRC staff is also responsible for making sure that City Contractors pay their employees the required common or prevailing wages for work done on covered City projects. Almost all federally-funded projects are covered by Davis Bacon prevailing wage laws pursuant to federal law; all City-funded projects that cost more than \$250,000 are covered by the state common wage law. In 2013, I attended nine preconstruction or prebid conferences, explaining to potential bidders their responsibilities under applicable laws. Barbara Toddy monitored compliance with these laws by answering questions from contractors and employees, reviewing wage documentation forms and writing letters to employees.

This year was the eighth year that the Bloomington Living Wage Ordinance (LWO) was in effect, and the BHRC staff was assigned the job of monitoring compliance with this ordinance. Monitoring compliance has largely been a matter of answering questions about whether the ordinance is applicable to a specific situation, obtaining required documentation from contractors and updating the web site. To date, no one has filed a formal complaint alleging violations of the LWO.

ACCESSIBILTY ISSUES: I serve as the City's Americans with Disabilities compliance officer, working to make sure that the City, both as an employer and as a governmental entity, is meeting or exceeding its requirements under the ADA. I also try to help keep businesses aware of their obligations under the ADA, and I try to help resolve complaints from citizens about businesses not being accessible. Since 2010, I've been working to keep the special needs dispatch program up to date. This program helps first responders know when people calling 911 have disabilities and may need specific services. More than 150 people have signed up for this program thus far. Keeping the information current continues to be a time-consuming task, but one we believe is worth the effort.

I continue to work with several City departments to update the City's ADA transition plan. We plan to have the updated plan ready for citizen review and input in early 2014.

In my role as an assistant City attorney, I work with the City's Human Resources Department to make sure that the City is complying with applicable fair employment laws. I review our policies and procedures, provide legal assistance with internal grievances and when necessary, represent the City when formal discrimination complaints or unemployment claims have been filed.

EDUCATIONAL PROGRAMS: Our monthly newsletter, "Rights Stuff," completed its fourteenth full year of publication in 2013. We distribute the newsletter largely through e-mail, but also leave hard copies at coffee houses and at the county library. With the newsletter, we try to inform readers of recent trends in civil rights laws and to let the community know what we do. We also regularly update and distribute our brochures. During the 2013 Fourth of July parade, we distributed 2000 copies of our ever-popular activity book on diversity in Bloomington.

We are always glad to talk to groups or the media about what we do. In 2013, some of these presentations including talking about fair housing to Renters 101 classes and to the Monroe County Apartment Association, participating in a webinar about the special needs dispatch registration and answering questions from reporters, among other activities.

In October, the BHRC unanimously passed a resolution in opposition to the proposed state constitutional ban on same-sex marriage, joining many other organizations and businesses that have done the same. We hope adding our voice to the growing choir will help prevent this harmful proposal from becoming part of our state's constitution.

The BHRC can't achieve its goals alone, and thus we work with likeminded groups to sponsor activities that we hope will enhance civility in our community. Some of these activities in 2013 included co-sponsoring the 2013 Women's History Month Lunch in March, competing (unsuccessfully) in the VITAL Quiz Bowl in April, co-sponsoring the Council for Community Accessibility awards in October, working with Bloomington United as needed, and making donations to the King Commission, the Commission on the Status of Black Males and the Monroe County NAACP.

BUDGET: The BHRC's budget in 2013 was \$157,227.00. Of that, \$149,192.00 went to salaries and benefits. The remaining \$8,035.00 paid for office supplies, law books, instruction, printing, advertising, dues, subscriptions, consultants and workshops.

CITY OF BLOOMINGTON HUMAN RIGHTS COMMISSION

2007 - 2013 Comparative Data

	2007	2008	2009	2010	2011	2012	2013
New complaints within BHRC	5	6	9	5	3	5	5
jurisdiction							
	4	2	2	3	1	2	4
No probable cause findings					1		
issued							
Settlement agreements reached	0	2	1	1	2	1	2
Complaints withdrawn before	0	0	1 1	2	0	0	0
determination issued							
Cases still pending	0	0	2	1	1	3	2
Complaints drafted and	13	12	9	10	2	4	3
forwarded to EEOC							
Complaints drafted and	4	2	1	2	1	1	0
forwarded to ICRC							
Complaints drafted and	0	0	0	0	0	0	0
forwarded to HUD]			
Complaints transferred to	1	0	2	0	0	0	0
appropriate federal agency after							
partial investigation							
Complaints dismissed for failure	1	1	2	0	0	0	0
to cooperate							
Complaints drafted but never	2	1	0	0	0	2	2
signed							
Affirmative action plans	100	55	89	73	72	61	78
reviewed							
Preconstruction/prebid	12	3	5	8	10	12	9
conferences attended							1
Employer seminars and	8	10	9	13	6	7	4
community speeches							

BREAKDOWN OF BHRC COMPLAINTS 2007 - 2013

	2007	2008	2009	2010	2011	2012	2013
EMPLOYMENT	3	4	7	4	3	4	4
Race discrimination	0	0	3	2	0	0	2
Disability discrimination	0	0	1	2	1	1	0
Sex discrimination (includes	0	3	0	0	0	2	2
sexual harassment)							
Sex & disability and/or	1	0	0	0	0	0	0
retaliation							
Race & sex	0	0	0	0	0	0	0
Sexual orientation &	1	0	0	0	0	0	0
disability							
Race and national origin	0	0	0	0	1	0	0
Religion	0	1	1	0	0	0	0
Disability and/or race	0	0	0	0	0	0	0
Sex/religion/disability/	0	0	1	0	0	0	0
retaliation							
Sex/religion/retaliation	0	0	1	0	0	0	0
Sexual orientation	0	0	0	0	0	1	0
Disability and/or national	0	0	0	0	0	0	0
origin							
Sex/sexual orientation	1	0	0	0	0	0	0
and/or religion							
Sex and/or disability	0	0	1	0	0	0	0
National origin	0	0	0	0	1	0	0
HOUSING	1	1	1	0	0	0	0
Sex discrimination	0	0	0	0	0	0	0
Disability discrimination	0	0	0	0	0	0	0
Race discrimination	0	0	0	0	0	0	0
Familial Status	0	1	1	0	0	0	0
discrimination	Ī			1			
Sexual orientation	0	0	0	0	0	0	0
PUBLIC	0	1	2	1	0	1	1
ACCOMMODATIONS							_
Race discrimination	0	0	0	0	0	1	0
Gender identity	0	0	1	0	0	0	0
Sex	0	0	0	0	0	0	0
Sex/race and/or national	0	0	1	1	0	0	0
origin							
Sexual orientation	0	1	0	0	0	0	0
Disability	0	0	1	0	0	0	1

BLOOMINGTON HUMAN RIGHTS COMMISSION

SUMMARY OF 2013 CASES

BHRC DOCKET #0646: Man said his female supervisors repeatedly hired unqualified women, giving them better pay, assignments and benefits than he received. He was required to repair the damage they caused. He resigned and filed a sex discrimination in employment complaint. Investigation uncovered perhaps unprofessional behavior on the part of the supervisors, but no clear pattern of better treatment of female employees because of their sex. (Complaint filed in July, 2012; no probable cause finding issued in April, 2013; not appealed; investigated by Commissioner Bangert.)

BHRC DOCKET #0647: A woman with a disability said she was denied a promotion because of her disability. Her supervisor said she should work at a slower-paced store, even though he had never criticized her work performance or ability to keep up at her current, busy store. She filed a complaint alleging discrimination in employment on the basis of her disability. Employer initially said that complainant was not promoted because of her availability and experience, but that explanation did not withstand scrutiny. Employer agreed to pay complainant \$724.80 in back pay; promote her to a higher-paying job and coordinate a discussion between complainant and supervisor who refused to promote her. (Complaint filed in November, 2012; BHRC approved settlement in April, 2013; investigated by Commissioner Molenda.)

BHRC DOCKET #0648: Woman said her employer tolerated a hostile work environment, doing nothing to curtail male employees who frequently discussed sexual issues at work. She complained, but did not feel that her supervisors were treating her complaint seriously. She resigned and filed a complaint of sex discrimination in employment. Investigation revealed atmosphere at work was not "hostile" as the law defines the term; a few unwanted comments, most of which were not directed at complainant, do not create an illegally hostile work environment. (Complaint filed in November, 2012; no probable cause finding issued in April, 2013; appealed unsuccessfully; investigated by Commissioner Calloway-Thomas.)

BHRC DOCKET #0649: Woman with a visual impairment said she was unfairly accused of theft at a grocery store; she forgot to check out an item on the bottom of her cart and couldn't easily see it. Security officer required her to sign a document she could not read because of her impairment and banned her from the store. She filed a complaint alleging disability discrimination in public accommodations. Store agreed to lift ban and to not charge her a fine. (Complaint filed in January, 2013; BHRC approved settlement in February, 2013; investigated by Commissioner Guhl.)

BHRC DOCKET #0650: Woman said she applied for a dishwasher job at a restaurant but was told they hire only women as servers and only men as dishwashers. Restaurant owner admitted saying something along those lines, but claimed she made the comment only as a way to get the complainant, who she said was being demanding and

intimidating, to leave. Restaurant provided evidence that it had hired no one at the time the complainant applied for a job or for months afterwards, and that it had employed female dishwashers in the past. Because the restaurant had not hired anyone, BHRC could not find it had engaged in sex discrimination in employment. BHRC made suggestions to both parties on possible ways to reduce chances of similar incidents in the future. (Complaint filed in March, 2013; no probable cause finding issued in June, 2013; not appealed; investigated by Commissioner Haughton.)

BHRC DOCKET #0651: African American man said he applied for a job at a restaurant, and that the manager all but promised him a job. When manager did not return several phone calls, complainant went to the restaurant to try to talk to him. He entered through the employee-only door, through the employee-only kitchen, and talked to the restaurant owner, whom he had not yet met. He told the owner that he was there about a job. The owner told him they had no openings, and the complainant said either "I've noticed you don't hire any minorities" (according to the complainant) or "I've noticed you have a problem with minorities" (according to the owner). After further discussion, owner told the complainant either to get his "ass" out of the restaurant (according to the owner) or get his "black ass" out of the restaurant (according to the complainant). Complainant filed a complaint of race discrimination in employment. Restaurant provided evidence that more than 15% of its employees are African Americans and that it did not in fact have an opening at the time the complainant applied, or for a couple of months afterwards. BHRC made suggestions to both parties on possible ways to reduce chances of similar incidents in the future. (Complaint filed in June, 2013; no probable cause finding issued in August, 2013; not appealed; investigated by Commissioner Applegate.)

BHRC DOCKET #0652: African American man said that he had been working for a business for a couple of years without any reprimands. He applied for a part-time job with another related business. He was not offered the part-time job, and the day after his interview he was fired by his primary employer. He believes his termination might be related to a complaint of race discrimination he filed against a related organization several years ago, a complaint which was settled by the EEOC and which might have been uncovered when the second employer checked his references. (Complaint filed in November, 2013; investigation pending; being investigated by Commissioner Morris.)

BHRC DOCKET #0653: Woman said she worked at a restaurant where the owner and a co-worker subjected her to sexual harassment and other mistreatment. When she complained, her hours were reduced and then she was effectively fired. (Complaint filed in December, 2013; investigation pending; being investigated by Commissioner Molenda.)

CITY OF BLOOMINGTON HUMAN RIGHTS COMMISSION

PUBLIC INQUIRIES

The Bloomington Human Rights Commission, by ordinance, has a fairly limited jurisdiction. We are authorized to investigate complaints of alleged discrimination on the basis of sex, race, sexual orientation, national origin, color, gender identity, ancestry, religion or disability in employment, public accommodations, education or housing, as long as the complaints arose within the City limits of Bloomington within the past 180 days. We are authorized to organize educational efforts, such as seminars, talks, brochures, awards and essay/art contests, to combat discrimination. We may and we do join forces with like-minded groups to achieve our joint goals. Fulfilling our mandate under the Bloomington Human Rights Ordinance keeps us busy.

However, perhaps because of the broad name of our commission, we often receive calls about matters that are not within our jurisdiction. We try to be familiar with the applicable laws and community resources, and we try to give callers an appropriate referral or other helpful advice. Again this year, we received many inquiries which did not lead to complaints being filed with our office. Some people sought general legal information; some needed to be referred to other agencies; some seemed to need only a sounding board. What follows is a categorical breakdown and a summary of some inquiries for the purpose of illustration.

CATEGORICAL BREAKDOWN

<u>Sexual Orientation/Gender Identity:</u> Callers often had questions or concerns about sexual orientation and/or gender identity discrimination. These callers included students wanting the definition of "sexual orientation" or "gender identity" and gays, lesbians, transgender individuals and employers wanting to know their rights and responsibilities under our ordinance. Again this year, we had several calls from communities from around the country considering implementing their own sexual orientation and/or gender identity ordinance, and were glad to provide assistance in this area.

Americans with Disabilities Act: We receive many calls about the Americans with Disabilities Act. Most of the calls are from employers or employees wanting to know their rights and responsibilities under this federal law or from contractors wanting information on ADA regulations. The BHRC director, as the ADA compliance officer for the City, is quite familiar with the ADA and is able to give informed general advice and to make referrals when necessary. The City's Accessible Bloomington web page helps answer questions as well.

Housing Code Violations/Landlord Tenant Disputes: Many callers mistakenly believe we have jurisdiction over housing code problems or landlord/tenant disputes that don't involve discrimination. We refer such calls to the City's housing code enforcement office and/or to a private attorney.

<u>Wage Disputes:</u> Employees who cannot obtain their last paycheck or pension benefits often call us. These cases do not usually have a discrimination element and are referred to the State Labor Board.

<u>FMLA:</u> People often call us to learn about their rights under the federal Family and Medical Leave Act. We answer general questions when we are able and refer callers to the Federal Wage and Hour Division of the Department of Labor for additional information.

<u>Workers' Compensation:</u> We received many calls about workers' compensation in 2013. Our staff lacks expertise in this area and refers all such calls to private attorneys and the State Labor Board.

<u>Unemployment benefits:</u> People fighting for unemployment benefits often call us, wanting us to represent them in an upcoming unemployment hearing. This is not a BHRC issue and so we make referrals.

Other: Many of our calls do not fall under any of the categories. Some of those calls are described below.

OTHER INQUIRIES

Caller said that she worked for an employer not subject to BHRC's jurisdiction. A male co-worker inappropriately touched her; she reported that and the employer took appropriate action. Later, she learned that the man had been questioned about a felony offense decades ago and thus she felt he might not be safe. Then she thought someone might have tampered with her food at work. She did not think her employer or law enforcement had handled the situation appropriately. Not a discrimination matter – employer handled the initial complaint appropriately. Referred to ACLU of Indiana and to employer's HR department.

Caller said her son works in Southern Indiana as an electrician. He is not getting the same hours as his co-workers and is getting paid less because of his criminal history, because they know they have him over a barrel. Criminal history not a legally protected category. He is the oldest employee; suggested he talk to the EEOC to see if the employer's actions might constitute age discrimination. Also referred to SBA to see if he could get a loan to start his own company, to Indiana Department of Labor to see if the pay violates their standards and to private attorney.

Caller said he had filed a discrimination complaint with his union, not in Monroe County, and wanted to know if he had to wait until the union made a decision before he filed a complaint with the EEOC. Not necessarily, but usually good to give the internal process a chance before filing formal complaints with an outside agency unless you are up against the deadline to file a complaint.

Caller wanted names of certified contractors to improve accessibility in her home. Told her we don't know of any certification process, but suggested she call agencies that provide services to people with disabilities for their recommendations.

Caller said she had been a live-in housekeeper and caregiver for an elderly man for years. His son recently reported her to adult protective services and she's been ordered out of the home. She wanted to know her rights. She had no contract and was employed by the elderly man, not by an agency. Not covered by the Bloomington Human Rights Ordinance; referred to Indiana Legal Services.

Caller, a biracial man with a disability, said he felt disrespected when he went to a social service agency for help. He believed the person he met with was rude and unhelpful, but had no evidence that the treatment was based on his race and/or disability. Agency primarily works with people with disabilities. Decided to try to pursue issue internally before doing anything else.

Caller said that her brother had been diagnosed with a mental illness. He had trouble getting the help he needed and getting the appropriate medications. One facility gave him a shot of a medication that had not been prescribed and that made him worse. He ended up committing a criminal act while under delusions that may have been made worse by the wrong medication. He has a public defender. Not an issue that the BHRC can help with; referred to Indiana Medical Licensing Board and agencies that support people with mental illness.

Letter writer, who had requested and received information about the BHRC to share with his fellow activists, thanked the BHRC for the information and said he had been told repeatedly he was going to hell for his work on civil rights for gays and lesbians in his Indiana town. He said he told them that since he was living in this Indiana town, he was already in hell.

E-mail writer asked how the human rights ordinance could be amended to protect people who are homeless from discrimination. Offered to meet with her and her colleagues to discuss pros and cons of the proposal.

E-mail writer, director of a nonprofit agency, said she knew she could not refuse to hire someone because he smokes, but asked if she has to allow the smoker to smoke on the employer's premises. No, state law does not require employers to allow employees to smoke on the premises, but does prohibit refusing to hire someone because he smokes on his own time.

E-mail writer said he was being treated unfairly by a company that rebuilds engines in Bloomington. He said his rebuilt engine was supposed to have a six-year warranty but after three years, the company is saying they have a new owner and thus the warranty is no longer valid. Explained that this was not an issue covered by the Bloomington Human Rights Ordinance and even if it were, he is in Bloomington, CA, not Bloomington, IN. Referred to private attorney and/or consumer division of state's attorney general office.

Caller said that her son worked at a restaurant for about two weeks. They did not set him up to clock in, so he recorded his hours on a piece of paper. They are refusing to pay him for all of the hours that he recorded and thus are underpaying him by about \$100. No evidence of race, sex, etc., discrimination. Referred to Wage and Hour Division of State Labor Board.

Caller said that President Obama's support of gay rights violated his constitutional rights. Tried to refer him to ACLU of Indiana, the agency that can do more to vindicate constitutional violations than the BHRC, but he hung up.

Caller, who works for a county office outside Monroe County, said she had received a packet of documents with McKinney's return address on the envelope. We determined that the sender was a Bloomington man who repeatedly sends out packets of documents using someone else's return address.

Caller said she had been charged with DWI after she failed to be able to walk a straight line, but blamed this on her disability. She has a public defender; explained he has to make her case to the judge.

Caller said he needed to know the status of his EEOC complaint. Told him he needed to call the EEOC, as his complaint was not filed with the BHRC. He said they never returned his calls, so that's why he called the BHRC. Referred him back to EEOC.

Caller, owner of a locksmith company in Ft. Wayne, said one of his bigger customers wanted to know what his non-discrimination policy was. His company is small and he had no such policy. Sent him a copy of BHRC's model affirmative action plan to adapt for his company.

Caller said he had filed a discrimination complaint with the EEOC. They found no cause, but issued him the standard right to sue letter. He can't find an attorney. Tried to make referrals. He said a director of another HRC had told him we would represent him and tried to insist that we do so.

E-mail writer said she lives in New Zealand and has a friend in Bloomington who is currently living on the streets because of abuse at home. She said her friend can't stay at a shelter for abused women because it's full, but said her friend does take showers there. (Shelter said it doesn't allow people who are not

residents to take showers there, and gives referrals to people if they are full.) Referred her to township trustee and Shalom.

Letter writer sent copies of bank information and deposit slips from a Hawaii bank and a handwritten note saying that he had been mistreated by judges in Lawrence County. Did not provide his name, address or specifics, so BHRC took no action.

Visitor to office said that his friend had been harassed by law enforcement for being a woman. Complaint was vague and hard to follow. BHRC has no jurisdiction over law enforcement. Referred to chief of police, board of public safety and/or ACLU of Indiana.

Visitor to office had concerns about people who have been evicted twice essentially becoming "non-persons," as no one will rent to them. If they share space with someone without the landlord knowing, the legal tenant can raise the rent without notice. Discussed in general.

E-mail writer asked for information about minority groups in Senate District 50 for her DFL (Democratic Farmer Labor) Party group. Asked her if she was looking for the Bloomington, MN, HRC, as DFL is a Minnesota political party. Yes.

E-mail writer asked if ADA requires that outdoor benches have backs and/or arm rests. No ADA standards for outdoor benches except for height, but recommended that facility have some benches with backs and/or sides as they benefit some people with disabilities.

Caller asked if it is illegal for outdoor benches to have arm rests in the middle because that discourages sleeping on the benches. Not to our knowledge.

Caller said that she owns a small store. A woman brought in a dog that she said was a service dog, but the dog was not under the woman's control and caused some problems. She asked what her rights and responsibilities were under the ADA in dealing with service dogs. Sent her the DOJ handout on the topic.

Caller said she has a disability and has been told her landlord won't renew her lease because of neighbors' complaints about the smell of her pets. She has five cats and a dog. The dog is a service dog; she said the cats are all "emotional support" animals. Explained that courts would probably not find that someone needs five emotional support animals, and might say that the service dog could be both a service animal and an emotional support animal. She is going to try to work out the issues with the landlord and get back to us if she can't, as the lease doesn't expire for about seven months.

Visitor to office said that she had been laid off from her job of 13 years, without an explanation. She said the company has since hired others. She asked if that

was legal. Her form from the employer said both that she had been laid off and terminated. She said the employer used to like her but doesn't anymore, and that is why she was laid off. Not illegal to do what employer did, and no evidence of violation of human rights ordinance. Referred to unemployment office.

E-mail writer, a woman for whom we had prepared a complaint in 2012 but who had never signed or filed it, sent a long draft letter to the editor that she wanted McKinney to review and to provide back up evidence for her claims. Told her HT's rules for letter to the editor and guest columns; made referrals.

Visitor to office said he had been hired by a contractor to do work in a restaurant in Bloomington and also in Illinois. He did the work as instructed, but the contractor is refusing to pay him, claiming it was not done properly. No evidence of race, sex, religion, etc., discrimination. Referred to Indiana Legal Services. Wage and Hour Division of Indiana Department of Labor, owner of building that houses the restaurant and small claims court.

Caller left a message saying that her three-year old is now potty-trained and so she needed to be moved up on the waiting list for child care. She said that it was urgent that she work out child care as soon as possible. Returned call and told her she had a wrong number; she became very upset when we could not give her the right number.

Caller said she had worked for a governmental office outside of Monroe County. She did not believe her office complied with its own personnel policies, and she believed that her office discriminated against her on the basis of her sex. She said she called the EEOC to find out how she should handle the situation, and the EEOC told her to write a formal grievance to her supervisor. When she did so, the HR department said she needed to undergo a psych evaluation before she would be allowed to return to work. She said she did nothing to make them doubt her sanity. She said she asked why she needed an evaluation and was told because the boss said so. Told her that typically, employers cannot require a medical exam without good reason, and referred her back to the EEOC and/or a private attorney for further guidance.

Caller said that he worked for a business that has offices in Bloomington and throughout the state. He said he believed the business was discriminating against him on the basis of his race and/or national origin. He worked for the business in Evansville and Terre Haute and had no connection to Bloomington; told him he needs to file a complaint with the human rights commission in one of those cities.

E-mail writer said that he does training for the U.S. Department of Homeland Security. He said he wants to put together a webinar on how to create a special needs dispatch registry and asked if McKinney would talk to him for an hour to

explain what is necessary to create, manage and use a special needs registry. Answered his questions and participated in webinar.

E-mail writer said he was a musician from South America who has been accepted into the IU School of Music, but he cannot afford to attend. Asked for BHRC grant or scholarship. Explained that we have no such program and wished him well.

Caller wanted to know what she needed to do to get a Ten Commandments monument erected on the courthouse lawn. Referred to Monroe County officials.

Caller, an African American man, said he had a new job in a fast food restaurant. He was scheduled for 22 hours the first week, but they kept sending him home early because they were not busy. He overheard a dispute between a manager and an assistant manager about their work duties that he did not think he should have heard. He wanted to file a complaint of race discrimination in employment. Explained that unless he had some reason to believe that they were not giving him hours because of his race, he likely did not have a case. Explained that his overhearing something he didn't think he should have is likely not evidence of race discrimination.

Caller said that he had worked for employer not subject to BHRC's jurisdiction for more than 20 years. He is now being told to either resign or lose his job subject to a reduction in force (RIF). No evidence of race, sex, etc., discrimination. Explained hire-at-will laws and made referrals.

Caller said her employer was requesting a lot of personal medical information from her. Explained the law; she will call back if need be.

Law student wanted to apply for internship for the fall; when told we didn't have any openings, asked where else he should apply. Suggested he talk to placement office at law school.

Caller said she applied for a job. She noted on her application that she had a misdemeanor conviction. They started a criminal background check on her but before they got the results, hired her. She quit her previous job and went through two days of paid training with the new employer. Then the employer received the results of her criminal background check and fired her. Not a violation of the human rights ordinance. Referred to private attorney to see if she had a breach of contract case since she relied on their promise of employment and quit her previous job.

Visitor to office believed that pending criminal charges against her were unfounded, that her public defender was not qualified and that she, as a person with a disability, should not have to fulfill restitution requirements. Explained that none of this was within the BHRC's jurisdiction and made referrals.

Caller left a message at 3 a.m. on a Sunday morning saying that stop signs were a violation of his human rights. Did not return the call.

E-mail writer asked BHRC to join the Beyond Belief Walk for Peace, scheduled for November at the Mall of America. Responded by asking if writer was looking for the Bloomington, MN HRC, as the Mall of America is located in Bloomington, MN. Confirmed.

Caller said that she keeps calling the Equal Employment Opportunity Commission about her case, but no one answers the phone. So she wanted us to let her know the status of her complaint. Explained we don't have access to EEOC files and discussed the impact of budget shutdown; gave her the phone number of her member of Congress to complain.

Caller said that he had been hurt on the job. Employer is refusing to pay for cosmetic surgery needed after the injury and fired him. Referred to private attorney who handles workers' comp issues and to state workers' comp board, as well as to workforce development to apply for unemployment benefits. Caller was irate that "City does not care about injured workers." Tried to explain BHRC has no role in this kind of case.

Caller said that he thought it was wrong that a local newspaper included the race of individuals involved in a hiring controversy at a public institution. Explained this was not within our jurisdiction and that newspaper has first amendment rights; referred to editor of paper, with whom he had already spoken.

E-mail writer asked if he had to provide sign language interpreter at public even as requested; yes, if it's not an undue burden to do so.

E-mail writer asked if apartment complex could tell her children they could not play on the complex property, even if they didn't have a no trespassing sign. Not a human rights issue, but told her our understanding is that they can put up a sign or tell you verbally that they don't want you on their property.

Caller said that his girlfriend had years of experience working for a restaurant chain in the south. Since moving to Bloomington, she has applied for several jobs with the same chain, but so far has not received a job offer. He believes she is being denied a job because of her race. Asked to speak to her about the situation; he said she didn't know he was calling BHRC and probably wouldn't want to talk to us. Suggested she call BHRC if she changes her mind.

Caller, from Northern Indiana, said her long-time employer had fired her and replaced her with his mother. Asked if that was legal; likely yes. Referred to private attorney and to unemployment office. She said she already had filed for unemployment benefits, which referred her to the BHRC for reasons unknown.

E-mail writer said she was being threatened with eviction because her apartment was dirty and had bed bugs. She called this "elder abuse." She denied that it was dirty and said bed bugs are harmless and God's creatures. Explained that age discrimination is not a protected class under fair housing laws; referred to Indiana Legal Services; explained that landlord would have to take her to court and prove his case to evict her. She responded weeks later that she was actually complaining about discrimination on the basis of ethnicity, that McKinney quoted federal law for no reason and that she would take her complaint elsewhere so that McKinney could spend her taxpayer-funded time continuing to socialize instead of working. Gave her contact information for ICRC and HUD.

Caller said that landlord is taking months to process her application, apparently because landlord does not like caller. Discussed situation in general; not a BHRC issue.

E-mail writer had questions about why she had to make parking lot and entrance at her place of public accommodations accessible if most of interior cannot be made accessible; explained ADA requirements and tax credits.

BLOOMINGTON HUMAN RIGHTS COMMISSION HATE INCIDENTS REPORT

July, 2012 - June, 2013

In August 1990, the Bloomington Common Council unanimously approved an amendment to the Bloomington Human Rights Ordinance which gave the Bloomington Human Rights Commission the explicit authority to collect data and issue reports on hate incidents in our community. We accept reports from police departments, individuals, groups and the media. We also accept anonymous reports. Our goal is not to investigate these incidents, as we do not have the training, authority or resources to conduct these types of investigations. Rather, our goals are to serve as a referral resource and sounding board for victims, to work with community groups to coordinate responses to hate incidents when appropriate and to make our community more aware of the prevalence of hate incidents through issuing these annual reports. Some of the language in these reports may be offensive. We feel it's necessary to include the actual language in order to convey the true ugliness of these incidents.

In July, 2012, we received a report from BPD about a battery and attempted robbery. Two men and a woman reported that they had been home watching a movie on television when two men came into the apartment and yelled, "Give me your money, faggot." The men hit one of the male residents in the head, causing him to bleed. Then the two invaders fled the apartment. The male resident told police he did not know who the two men were. He reported that three weeks earlier, he had come home to find the words "Fuck you fag" written at the top of his door. BPD investigated.

In August, 2012, we received a report from BPD about vandalism. A man reported that someone had keyed the words "I rape kids" and "fag," as well as the letter "X" on his car. BPD investigated.

In August, 2012, we received a report from BPD about a battery. Several juvenile females got into a fight. One girl called another girl "a bitch and a nigger." One girl had a scratch on her cheek but did not want to press charges. BPD told all of the girls to stay away from each other.

In September, 2012, we received a report from BPD about a battery. A white woman reported that she had told a visitor at her apartment that she was engaged to a white man, who was in her apartment, and that she was also having a relationship with a black man. The white male visitor became very irate at the news. He said he was a white supremacist and said several racial slurs. He also yelled at her about being unfaithful to her fiancé. She shouted in his face about his intolerance and he shoved her and spat on her. He told her that white supremacists were coming to town and they would harm her and her African American friend. BPD sought an arrest warrant for the white male visitor and explained protection and no contact orders to the victim.

In September, 2012, we received a report from BPD about a battery involving juveniles at a school. One student called another "gay" and said he was going to beat the student up.

The student who was called gay said he would not fight back. The first student hit him several times until the second student did fight back, at which point the first student slammed the second student's head against the wall. The first student was arrested.

In September, 2012, we received a report from BPD about a battery. A child with autism called older neighborhood kids "white trash" and "black trash." One of the older kids responded by hitting the child with autism with a belt, causing a welt. He said he didn't mean to hit the younger kid. Rather, he was just swinging his belt, trying to scare him. BPD investigated.

In October, 2012, we received a report form BPD about vandalism. A woman reported that someone had keyed the word "fag" on the trunk of her car. BPD investigated.

In October, 2012, we received a report from BPD about a battery. A woman reported she had an argument with a white male friend after he called her boyfriend a "nigger." When he said that, she yelled at him, and he hit her in the mouth. She tried to hit him back, but he ducked and locked himself in his bedroom. The man claimed she had hit him as well, but he did not recall on which side of his face he had been hit and had no injury. Both of the participants had been drinking. Neither wanted to press charges against the other.

In November, 2012, we received a report from BPD about vandalism. A man reported someone had painted "I gay" on the side of his house. BPD investigated.

In November, 2012, we received a report from BPD about vandalism. Someone spray painted the words "gay" on the side of a woman's house. BPD investigated, noting the similarity between this and the previous incident.

In April, 2013, we received a report from BPD about harassment. A restaurant employee said that a semi-regular customer had been in the restaurant earlier and had used foul language. Previously, the customer had called an employee a "fag." On this date, the customer was using foul language in general and had become upset. The employee asked the customer to leave, which led to the customer yelling, telling the employee to "go fuck" himself and threatening to "shoot the place up." The employee said that on previous visits, the customer had made racist comments to customers and other homophobic comments to employees. By the time the police arrived, the customer had left and the police could not find him. BPD told the employee to let the police know if the customer

returns, so that BPD may advise the customer about trespass and felony intimidation.

In May, 2013, we received a report from BPD about a battery. An African American woman was trying to help a white male friend who had been in a fight. She was cleaning his wounds when his girlfriend came. The girlfriend told her to stop cleaning his wounds because she wanted to walk the man home. The African American woman said she wanted to finish what she was doing. The white woman said, depending on which witness you believe, "Let's not get ghetto here," "ghetto nigger," "ghetto nigger bitch" or "dirty nigger." She also, by one account, spat in the African American woman's face. The

African American woman chased the white woman out of the apartment and repeatedly hit and kicked her, in view of a police officer. The police arrested the African American woman.

In May, 2013, we received a report from BPD about a possibly pre-arranged fight between some juveniles, apparently provoked by one boy calling another a "nigger" and being called a "pussy" in return. BPD investigated.

In May, 2013, we received a report from BPD about an incident. A man said that he met someone who gave him a ride home. They were talking outside of his home when they were approached by another man. Both the man who approached them and the visitor then hit him and stole some pills and cash from him. He reported the incident to the police. When he later followed up by sending a text message to the man who had given him a ride home, that man replied, "IDK (I don't know) what zip XQ means, but if you try to get at the police nigga they won't like that. You were trying to sell me ur (your) pills U (you) stupid nigger." The victim admitted to the police at that time that he had sold some pills to the man who gave him a ride home and that they stole back some of the cash he had received for the pills. BPD investigated.

In June, 2013, we received a report from BPD about a battery. Witnesses reported that two African American men kept hitting on some women in a bar. A male friend of the women told the African American men to leave the women alone, and one of the African American men hit the male friend, knocking out two teeth. The police arrested the African American man after a chase by vehicle and foot. The African American man initially claimed his friend had thrown the punch, but later admitted it was him. He said the male friend had called him "nigger." He said he ran from the police because he was on probation.

BLOOMINGTON HUMAN RIGHTS COMMISSION

STEPS IN PROCESSING A FORMAL COMPLAINT

- 1. Complainant who believes he/she has been discriminated against makes an appointment with the staff.
- 2. The director or assistant interviews the complainant to determine if the BHRC has jurisdiction. If we do, the complaint is written, signed and notarized. If not, the complainant is referred to the appropriate agency.
- 3. The respondent is notified of the complaint by certified mail and has 20 days to respond.
- 4. The case is assigned to a commissioner, who will investigate the complaint along with the director.
- 5. The director and investigating commissioner collect and summarize the facts. They interview both parties and witnesses, do legal research and collect documentation to obtain the best evidence available for each side.
- 6. If the respondent wishes to settle the complaint before an investigation is completed, the director and investigating commissioner strive to mediate a settlement between the complainant and respondent. This agreement must then be approved by the full BHRC.
- 7. If the case is not settled, the director and investigating commissioner, after a complete investigation, make a determination that probable cause or no probable cause exists to believe discrimination has occurred.
- 8. Both parties are notified of the finding.
- 9. If the finding was no probable cause, the complainant has 10 days in which to file a written appeal with the chair of the BHRC. A hearing is then held and the chair has 20 days to either uphold the finding or overturn the finding. If the finding is overturned, then the case proceeds to negotiations as if probable cause had been found originally.
- 10. If the finding is probable cause, the director and investigating commissioner attempt to negotiate a settlement that is agreeable to both parties. If the attempt is unsuccessful, the BHRC will hold a formal public hearing. The BHRC's decision after the hearing can be appealed to court by either party.





OUT OF THE MOUTHS OF BABES

Each year the BHRC sponsors an essay/art contest for local school-age children. This year the theme was "What I've Learned From People Different From Me." The following are excerpts from some of this year's winning essays.

- "It is important not to just pay attention to the way someone looks, but the way they are in the inside."
- ♦ "I believe everybody of every race should have equal rights, and worship in any religion they choose."
- * "I have learned in my twelve years of life that I live a charmed life compared to some people, but to others I may appear to have nothing. Everyone should be thankful since there is always someone who has less."
- ◆ "I've learned a lot about diversity in my life from my family, friends and even some quotes. My favorite quote was: 'I don't like that man. I've got to get to know him better.' Abraham Lincoln. Whenever I get mad at somebody for something they can't help, I think about that quote. It has helped me be a better and more peaceful person."

2013 Essay Winners

Ada Lynch Anabelle Thomassen Andrew Swank

Mari Walter-Bailey Sydnie Lynn Cunningham Allison VanLeeuwen

2013 Art Winners

Quinn Wilson Salem Akhras Simon Moore

Diego Smith Noah Moore Caitlyn Betar Tyler Shay

2014 BLOOMINGTON HUMAN RIGHTS COMMISSION

MEETING DATES

January 27, 2014	5:30 p.m.	McCloskey Room
February 24, 2014	5:30 p.m.	McCloskey Room
March 24, 2014	5:30 p.m.	McCloskey Room
April 28, 2014	5:30 p.m.	McCloskey Room
*May 19, 2014	5;30 p.m.	McCloskey Room
June 23, 2014	5:30 p.m.	McCloskey Room
July 28, 2014	5;30 p.m.	McCloskey Room
August 25, 2014	5:30 p.m.	McCloskey Room
September 22, 2014	5;30 p,m.	McCloskey Room
October 27, 2014	5:30 p.m.	McCloskey Room
November 24, 2014	5:30 p.m.	McCloskey Room
December 22, 2014	5:30 p.m.	McCloskey Room

The Human Rights Commission usually meets every fourth Monday of the month, with the exception of the May meeting.

Meetings will be held in the Showers Building, 401 N. Morton St., McCloskey Conference Room #135, on the first floor. The public is welcome to attend.

FORMER COMMISSIONERS

1960s

Rev. E. Daniel Butler Mrs. David Dansker Jack N. Ray Dr. Harry Yamaguchi William H. Andrews Rev. Robert Kirk, Sr. Rev. A. Hardy Nall, Jr.

David S. McCrea
Dustin McDonald
Betty Rowan
Robert F. Terry
Regina Friedman
Irving Fell
Mrs. Russell DeMotte

Bill Hayes Dr. Harry Day Samuel M. Loescher E.E. Bridgewaters Rev. Joe Emerson Brad Bayliss Craig Tregilgas

1970s

Frank Thomas
Clarence Gilliam
Dr. Joseph Russell
Dr. Jerry Ruff
La Verta Terry
Father Robert Borchertmeyer
Joan Simkowitz
William Jairrels
Wilanna Smith
John Irvine
Tobiatha Eagleson
Viola Taliaferro

Howard Canada Christine Iannucilli Daniel Gad Valerie Tarzian Robert Tucker Frederick LaCava Christine Mitchell William Gephart Mary Mitchell Ronald Foley Fran Koski Robert Epps Jorge Oclander
Mary Foster
Tula Kavadias
Mark Schenk
Charles Webster
Quincy Erickson
Mary Hayes
Rev. Joseph Walker
Richard Randall
Rev. William Webster
David Jimenez
Robert Cole

1980s

Robert Cole
John Pickel
Quincy Erickson
Tobiatha Eagleson
Ron Foley
George Foster
Tula Kavadias
Christine Mitchell
Jorge Oclander
Doris Sims

Bob Tucker
Ben Waxler
Frona Powell
Nora Peoples
Lorraine Rodts
Lorelei Meeker
Bridget McKinney
Chris Gardner
Jerry Vuke
Wilanna Smith

Roscoe Ellis
Bob Dunn
Edwin McClean
Rev. Charles Rogers
Mary Ellis
Wanda Reisz
Lauren Robel
Cassandra McConn
John Pickell

1990s

Harry Yamaguchi Mary Ellis George Foster Henry Hofstetter Steve Sanders Dr. Michael Wenzler Alan Yip Marie Phillips
Charlie Laganza
Barbara Fawcett
Bob Dunn
Lauren Robel
Rev. Greg Wilson
Barbara Wolf
Doug Bauder

Patty Muller
Doug Bauder
Dr. Fritz Lieber
Gwen Jones
Rev. Michael Anderson
Jack Hopkins
David Reidy

Steve Sanders

2000s

Dr. Fritz Lieber Steve Sanders Vicki Pappas Pam Huggins Jeff Harlig Luis Fuentes-Rohwer

David Reidy
Josh Cazares
Doug Bauder
Nancy Metz
Maria del Pilar File-Muriel
Dorothy Granger

Rev. Michael Anderson Melanie Castillo-Cullather Suzette Sims Shaunica Pridgen Emily Bowman Beth Kreitl

2010s

Luis Fuentes-Rohwer Amy Jackson Teri Guhl

Beth Kreitl Dorothy Granger Alice Tischler Emily Bowman Alexa Lopez